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SUBJECT: CANADIAN VIEWS ON UN SYSTEM OF INTERNAL JUSTICE

REF: STATE 51372

1. (SBU) In response to May 15 demarche (reftel) by PolMinCouns to the Department of Foreign Affairs and International Trade's Director General for International Organizations Ferry de Kerckhove, Senior Policy Advisor Shannon-Marie Soni on May 23 provided the following comments, which she said had been prepared in consultation with the Canadian mission to the UN in New York:

Begin text

-- We agree that reform of the UN's system of internal justice is of tremendous importance.

-- The member states need to get the reform right. Canada, within the CANZ group, has always maintained that a properly functioning, efficient and transparent system underpins all our efforts to strengthen accountability, oversight and human resources management reforms. Both management and staff need to be confident that the new system will operate fairly and efficiently.

-- We do not oppose setting up the mechanisms now that are crucial for the proper functioning of the Administration of Justice system, and returning to other parts at a later date. But we also recognise that we will have to work with all partners to ensure that their concerns are also addressed. This is likely to mean making a genuine commitment to return to some issues, such as scope, at a fixed future date.

-- On the scope of the new system, we agree that individuals who are not staff of the UN or its Funds & Programmes do not enjoy the same rights or conditions of service as UN staff, and thus, should not have recourse to the same system of internal justice. At the same time, we also agree that these individuals should have recourse to an appropriate mechanism to protect the rights they have. We recognize that some delegations have raised concerns with the current access non-staff personnel within the United Nations Organization have to an appropriate system of justice and associated

remedies. Therefore, we see merit in setting out a time frame for review of the scope of the statute, at a future date, to see if adjustments are necessary.

-- We also agree that one judge is sufficient at this stage. Again, this can be reviewed at a later date and tweaked if necessary.

-- We believe the issue of awarding costs should be discussed further. Cost awards can provide an important incentive to parties to act reasonably, and also a possible means to address the question of "equality of arms" raised by many delegations that is an alternative to creating a large office of staff legal assistance.

-- The informal consultations chaired last week by Germany were, in our view, helpful, particularly with the participation of
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secretariat officials in some meetings which helped to clarify the rationale behind certain drafting choices.

-- There are important substantive issues outstanding, but there may also be a number of differing approaches on the table that simply reflect delegations bringing experience from their own national legal systems to the negotiations. It will be important to seek reasonable compromises in these instances, in order to find a balance among various preferences.

End text

WILKINS